

AFTER ACTION AGENDA

**REGULAR CITY COMMISSION MEETING
MONDAY, OCTOBER 15, 2012
6:30 P.M.**

**DELTONA COMMISSION CHAMBERS
2345 PROVIDENCE BLVD.
DELTONA, FLORIDA**



AGENDA

1. **CALL TO ORDER**
2. **ROLL CALL - CITY CLERK**
3. **INVOCATION AND PLEDGE TO THE FLAG:**
 - A. **Silent Invocation Presented by Commissioner Carmolingo -**
4. **APPROVAL OF MINUTES & AGENDA:**
 - A. **Approval of Minutes - Regular City Commission of October 1, 2012.**

The Commission voted unanimously to approve the minutes of the Regular City Commission Meeting of October 1, 2012 as presented.
 - B. **Additions or Deletions to Agenda.**
5. **PRESENTATIONS/AWARDS/REPORTS:**
 - A. **Proclamation – Pancreatic Cancer Awareness Month – November, 2012.**
 - B. **Presentation by Diane J. Smith, School Board Member-District 5
Re: Volusia County School's 1 Mill Referendum.**

C. Presentation – Quarterly Board Reports of City Advisory Boards/Committees.

**6. PUBLIC FORUM – Citizen comments for any items.
(4 minute maximum length)**

***NOT ON THE AGENDA:**

Water and Sewer Rates – Commissioner Lowry comments.

After discussion, the Commission voted 4 to 3 (with Commissioner Herzberg, Vice Mayor Treusch and Mayor Masiarczyk voting against the motion) to authorize the execution of the documents by the November deadline that are necessary to obtain the line of credit at the rate of 2.5% for the purpose of constructing a new sewage treatment plant and that all new water/sewer capital improvement spending be placed on hold (that has not already been contracted) so that all capital improvement projects can be reviewed and that the water and sewage rates be rolled back to the amount that would allow for one 17.25% increase over what the rates were in 2008.

CONSENT All items marked with an * will be considered by one motion unless removed
AGENDA: from the Consent Agenda by a member of the City Commission. If an item is removed for clarification only, it will be discussed immediately following action on the Consent Agenda. If an item is removed for further discussion, it will be discussed under New Business immediately following the last listed item.

7. CONSENT AGENDA:

- * A. Request for approval of award of Bid #13002 for removal and replacement of basketball courts at Dwight Hawkins and Firefighter's Parks.**

Purchasing solicited bids from companies qualified to remove and replace basketball courts at Firefighter's Park located at 1426 Lombardy Drive and Dwight Hawkins Park located at 3050 Riverhead Avenue in Deltona, Florida.

This is a federally assisted project and is subject to the Fair Labor Standards Act, which includes Davis-Bacon (Certified Payroll), 24 CFR 85.36 (bonding requirements).

The bid was posted on demandstar and 450 companies were notified. There were 15 companies that downloaded the bid. Only one bid was received from Ace Surfaces, Inc. for a total of \$55,000 for both parks. Ace Surfaces, Inc. just

completed removal and replacement of the tennis and basketball courts at Wes Crile Park and they did very professional and impressive work.

Approved by Consent Agenda - to award Bid #13002 for removal and replacement of basketball courts at Dwight Hawkins and Firefighter's Parks to Ace Surfaces, Inc. at a total cost of \$55,000.

B. Request for approval to Piggyback State Contract #760-000-10-1 Construction, Industrial, Agricultural & Lawn Equipment to purchase Capital Items from Wesco Turf.

The Commission approved \$103,000 in the Capital Equipment fund for a Toro Reelmaster 6500-D Mower, a Toro Groundmaster Mower and a Toro Workman Spray Unit for the Parks and Recreation Department. Wesco Turf was awarded State Contract #760-000-10-1 for Toro Equipment at 21% off of the list price.

The Toro Reelmaster will be used to mow all nine athletic fields at Dewey Boster Soccer Complex. The Toro Groundmaster Mower will be used to cut outlying areas of Dewey Boster, Wes Crile and DuPont Lakes ball fields. The Toro Workman/Spray Unit is needed for replacement of current obsolete equipment and is needed for turf maintenance and agronomy.

After discussion, the Commission voted unanimously to piggyback State Contract #760-000-10-1 for the purchase of the Toro Groundmaster, the Toro Reelmaster and the Toro Workman with related accessories from Wesco Turf at a total cost of \$101,866.94.

C. Request for approval to purchase three (3) vehicles piggybacking the Florida Sheriff's Association Contract #11-19-0907.

This is a request to piggyback the Florida Sheriff's Association for the purchase of two (2) Ford F-250's for the Animal Control Division and one (1) Ford Explorer for the Construction Services Division to be used by the Fire Safety Manager.

The three (3) vehicles for the Building and Enforcement Services Department are replacement vehicles that were approved in the FY 12/13 budget as the current vehicles being used meet the City of Deltona Vehicle Replacement Guidelines.

After discussion, the Commission voted 6 to 1 (with Commissioner Zischkau voting against the motion) to piggyback Florida Sheriff's Association Contract #11-19-0907 for the purchase of two (2) Ford F-250's and one (1) Ford Explorer at a total cost of \$70,746.00.

8. ORDINANCES AND -PUBLIC HEARINGS:

A. Public Hearing – Public Hearing - Ordinance No. 20-2012, Adding Article VII,

"Mandatory Spay and Neuter", to Chapter 14, "Animals", of the City's Code of Ordinances, relating to the mandatory spaying and neutering of dogs and cats, at second and final reading.

At the Regular City Commission Meeting on Monday, September 17th, the City Commission adopted Ordinance No. 20-2012 at first reading and asked that a workshop be scheduled on this topic prior to second and final reading on October 15, 2012. However, the title of the Ordinance was not read into the record therefore the Ordinance was brought back before the City Commission at the Special City Commission Meeting, on Monday, September 24th for adoption at first reading again.

The mandatory spay and neuter ordinance was requested by Commissioner Herzberg to address the issue of unintended or uncontrolled breeding of dogs and cats which leads to many dogs, cats, puppies and kittens being unwanted, becoming strays, suffering starvation and death, and being impounded and euthanized at great expense to the City. The Ordinance was patterned after Volusia County's Ordinance.

At the October 8th Commission workshop, the Commission discussed the proposed Ordinance and agreed to consider tabling the Ordinance at second and final reading to a time certain to allow staff and the elected officials more time to consider revisions to the Ordinance. The Ordinance is included on the October 15th Commission agenda because it had already been advertised for second and final reading.

After discussion, the Commission voted unanimously to table Ordinance No. 20-2012, until November 19, 2012 for second and final reading.

- B. Public Hearing – Public Hearing - Ordinance No. 13-2012, Providing for a Rezoning of property located at 937, 939, and 941 Howland Boulevard totaling approximately 4.68± Acres from the Residential Estate One (RE-1) Category to the Retail Commercial District (c-1), for second and final reading; Applicant: Chuck Rudus (Pine Ridge Fellowship Church).**

This proposed zoning amendment for Ordinance No. 13-2012 includes the same property proposed to be changed to a Commercial future land use designation and follows Ordinance No. 12-2012. The application is to rezone the property from RE-1 (Rural Estate One) that allows a density of one unit per acre, to C-1 (Retail Commercial). The C-1 zoning allows a range of neighborhood-oriented uses, such as restaurants, offices, and other retail activities.

The purpose of this rezoning application is to position the site for future commercial development by taking advantage of an existing traffic signal and Howland Boulevard, which is proposed to be improved to four lanes. Thus, the adjacent land uses should match the capacity and design of the roadway that can accommodate commercial uses. Both currently and in the proposed widened four-

lane condition, Howland Boulevard is suitable for commercial land uses. The existing zoning designation of RE-1 for very low density/large lot residential development is under-utilizing the roadway frontage for which it is designed to accommodate greater traffic volumes. Further, there is an existing approximately 10-acre parcel across from the proposed commercial properties with commercial entitlements. Commercial land uses and entitlements on the proposed three lots would be consist and compatible with the existing commercial designations across Howland Boulevard.

The proposed C-1 zoning on site is consistent with the City's Comprehensive Plan and the City Commission voted to approve Ordinance No. 13-2012 at the first reading at the public hearing on October 1, 2012.

After discussion, the Commission voted unanimously to adopt Ordinance No. 13-2012, that provides for a rezoning on the subject parcels from RE-1 to C-1, at second and final reading.

C. Public Hearing – Public Hearing - Ordinance No. 23-2012, Providing for an Amendment to Section 110-600, "Types of Nonconformity", of Article VI, "Nonconformity", of Chapter 110, "Zoning" of the Code of Ordinances of the City of Deltona, Providing that certain dimensional non-conformities can be continued after damage to a residence, at second and final reading.

On August 15, 2012, City staff was made aware that an existing home does not conform to the minimum floor area requirements of the R-1 zoning district. The home featured ±1,068 square feet of living area that does not conform to the 1,200 square foot (SF) minimum living area requirement listed in the City's Code of Ordinances for the R-1 zoning district. This housing condition is not unusual in Deltona, as the City has numerous such structures throughout the community dating back to its early history.

Both the R-1 zoning classification and the 1,200 SF minimum floor area requirement for dwelling units within the R-1 zoning was adopted by the City in 2003 as part of a major revision to the City's zoning regulations. Before 2003, the City was implementing zoning requirements that were similar to the Volusia County Code, which was a minimum floor area for residential areas of 1,000 square feet. The 1,000 square foot minimum floor area threshold can be traced back to the Deltona Lakes Development Plan that was created in the mid 1970's.

Requiring a minimum floor area for dwelling units is not unique to municipalities to establish development consistency, uniform block faces good housing stock for land values, and uniform construction criteria. The City's minimum floor area requirement is similar to standards within the Codes of Volusia County, Port Orange, Deland, Ormond Beach, etc.

According to the City zoning regulations, homes that are smaller than 1,200 square feet are considered legally non-conforming structures. Owners of a non-

conforming home enjoy all of the rights of a conforming homeowner. However, if the non-conforming structure is damaged in excess of 75% of its replacement value, the home would have to come into compliance with the Code performance standards. Currently, the only way that a destroyed house could be built back below the minimum square foot requirement is through the variance process.

The proposed amendment to Section 100-600, Types of Nonconformity, would allow for reconstruction of a single family dwelling unit that has been destroyed in excess of 75% of its replacement value, by no fault of the owner, to the original square foot area, but no less, even if the living area is less than what the requisite zoning requires.

Ordinance No. 23-2012 was approved at first reading by the City Commission on October 1, 2012. Further, the Ordinance is consistent with the City's Comprehensive Plan.

After discussion, the Commission voted 6 to 1 (with Commissioner Herzberg voting against the motion) to adopt Ordinance No. 23-2012, an amendment to Types of Nonconformity, to allow for a structure to be rebuilt to the same or larger square footage when damage occurs to the structure through no fault of the owner, at second and final reading.

D. Public Hearing - Ordinance No. 24-2012, Providing for an Amendment to Sections 110-827(c)(1)(k) and (l), "Accessory Uses and Structures", of Article VIII, "Supplementary Regulations" of Chapter 110, "Zoning" of the City's Code of Ordinances, at second and final reading.

The City of Deltona is primarily developed with single family detached dwelling units situated on individually owned lots. Most of the lots within the City are roughly ±0.25 acres in size, which affords the homeowner the ability to construct accessory structures including sheds, gazebos, swimming pools, etc.

Attractive accessory structures typically complement a primary structure, are functional, sometimes increase property values, and can be an asset to the community. Conversely, unattractive accessory structures often have the opposite effect. Based on the popularity of accessory structures and the recognition that accessory structures should be regulated, the City in its early history opted to institute more detailed zoning requirements to manage the development of accessory structures. In 2000, the City adopted accessory use regulations that were incorporated into City zoning regulations as Section 110-827 of the Land Development Code.

Within Section 110-827, Section 110-827(c) (1) (k) exempts structures of 120 SF or less from the requirement to be compatible with the design and material construction of the principal structure. Also, Section 110-827(c)(1)(l) allows two accessory structures of 120 square feet (SF) or less to be built on one lot; for a total of up to 240 SF.

In an attempt to further the function and aesthetic goals of the City, Sections 110-827(c) (1) (k) and (l) are proposed to be changed to allow for an option of either one (1) or two (2) sheds, not including other types of accessory buildings and structures, of no more than 240 SF in the aggregate on residential lots of 20,000 SF or less.

Ordinance No. 24-2012 was approved at first reading by the City Commission on October 1, 2012. Further, the Ordinance is consistent with the City's Comprehensive Plan.

After discussion, the Commission voted 6 to 1 (with Commissioner Herzberg voting against the motion) to adopt Ordinance No. 24-2012, an amendment to Accessory Uses and Structures, by allowing an option of either one (1) or two (2) sheds, not including other types of accessory buildings and structures, of no more than 240 SF in the aggregate on residential lots of 20,000 SF or less, at second and final reading.

9. OLD BUSINESS: None

10. NEW BUSINESS:

A. Discussion re: City Manager annual performance evaluation.

The City Manager's Employment Agreement, dated October 6, 2008, provides the following:

"Employer shall annually review the performance of the Employee, on or before October 6th of each year following execution of this Agreement, subject to a process, form, criteria, and format for the evaluation which shall be mutually agreed upon by the Employee. The process at a minimum shall include the opportunity for both parties to: (1) prepare a written evaluation, (2) meet and discuss the evaluation with each member of the Commission, and (3) present a written summary of the evaluation results. The final written evaluation should be completed and delivered to the Employee within thirty (30) days of the evaluation meeting.

The Commission shall consider such salary or benefit increases as it may deem appropriate to remain competitive in the market. In any subsequent year, if the Commission should fail to evaluate the Employee's performance or fail to consider salary or benefit increases before October 6th of each year, the Employee shall automatically receive a four percent (4%) merit increase in salary commencing thereon. As other salary adjustments are approved or otherwise occur for general employees such as cost of living adjustments, the City Manager Employment Agreement stands to also be amended accordingly."

On September 6, 2012, the City Manager provided the approved Performance

Evaluation form to each member of the Commission with a requested date of completion of October 5, 2012 if possible (with a reminder email on September 27, 2012). At the time of the agenda packet preparation, five members of the City Commission have completed the performance evaluation forms and four have met one on one with the City Manager to review and discuss the evaluation and any areas of concern. Copies of the completed evaluation forms as received prior to Monday's meeting will be kept in a file maintained by Tom Acquaro, Human Resources Director, and copies will be made available upon your request to Mr. Acquaro. Upon receipt of all evaluations, a written summary of the results will be provided to the City Commission.

After discussion, the Commission voted 4 to 3 (with Commissioners Herzberg, Lowry and Zischkau voting against the motion) to give the City Manager a 2% increase effective October 1, 2012.

11. CITY COMMISSION COMMENTS:

12. CITY ATTORNEY COMMENTS:

13. CITY MANAGER COMMENTS:

14. ADJOURNMENT:

NOTE: If any person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings, and for such purpose he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (F.S. 286.0105).

Individuals with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk, Joyce Kent 48 hours in advance of the meeting date and time at (386) 878-8500.